

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

TRACY MORANO,

Plaintiff,

-against-

EXPERIAN INFORMATION SOLUTIONS, INC.
VERIZON COMMUNICATIONS INC., CREDIT ONE
BANK, N.A. AND COMENITY BANK,

Defendants.

Case No. 1:20-cv-03589

**ANSWER OF VERIZON
ONLINE, LLC, ERRON-
EOUSLY SUED AS VER-
IZON COMMUNICATIC-
ATIONS, INC.**

Defendant Verizon Online, LLC, *erroneously sued as* Verizon Communications, Inc. (“Defendant”), hereby answers the Complaint of Plaintiff Tracy Morano (“Plaintiff”), as follows:¹

Answering the unnumbered introductory paragraph of the Complaint, Defendant denies that it violated the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* (“FCRA”)

PRELIMINARY STATEMENT

1. Answering Paragraph 1 of the Complaint, Defendant admits only that Plaintiff’s Complaint purports to allege a violation of the FCRA. Defendant denies any express or implied allegation of wrongdoing, and denies violating the FCRA. Defendant further denies that Plaintiff is entitled to the relief requested in the Complaint, including for damages, fees, costs, or for any other relief whatsoever.

2. Answering Paragraph 2 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

3. Answering Paragraph 3 of the Complaint, these allegations consist of legal conclusions to which no response is required. To the extent a response is required, Defendant

¹ The Complaint’s headings are repeated herein for organizational purposes only, but should be considered denied.

denies these allegations to the extent they misstate the law, and further denies any express or implied allegation of wrongdoing, and denies violating the FCRA. Except as stated, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

4. Answering Paragraph 4 of the Complaint, these allegations consist of legal conclusions to which no response is required. To the extent a response is required, Defendant denies these allegations to the extent they misstate the law, and further denies any express or implied allegation of wrongdoing, and denies violating the FCRA. Except as stated, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

5. Answering Paragraph 4 of the Complaint, Defendant admits only that, as of the date of this Answer, the Consumer Financial Protection Bureau has published a document captioned “Supervisory Highlights Consumer Reporting Special Edition, Issue 14, Winter 2017 at https://files.consumerfinance.gov/f/documents/201703_cfpb_Supervisory-Highlights-Consumer-Reporting-Special-Edition.pdf, and that it includes the referenced quoted text. Except as stated, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

JURISDICTION

6. Answering Paragraph 6 of the Complaint, these allegations consist of legal conclusions to which no response is required. To the extent a response is required, Defendant denies these allegations to the extent they misstate the law, and denies violating the FCRA.

7. Answering Paragraph 7 of the Complaint, these allegations consist of legal conclusions to which no response is required. To the extent a response is required, Defendant denies these allegations to the extent they misstate the law. Except as stated, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

8. Answering Paragraph 8 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

9. Answering Paragraph 9 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

10. Answering Paragraph 10 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

11. Answering Paragraph 11 of the Complaint, Defendant admits that it is a Delaware corporation and is authorized to conduct business in New York. Defendant also admits that it has a registered agent in New York, CT Corporation System, with an address of 28 Liberty Street, New York, New York, 10005. Except as stated, Defendant denies the allegations.

12. Answering Paragraph 12 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

13. Answering Paragraph 13 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

14. Answering Paragraph 14 of the Complaint, Defendant admits that under certain circumstances and in certain situations, it furnishes certain information to consumer reporting agencies. Except as stated, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

FACTUAL ALLEGATIONS

15. Answering Paragraph 15 of the Complaint, Defendant admits that Plaintiff owes a financial obligation to Defendant. Except as stated, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

16. Answering Paragraph 16 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

17. Answering Paragraph 17 of the Complaint, Defendant denies reporting any misleading or erroneous information on Plaintiff's credit report, and denies making any impermissible inquiries on Plaintiff's credit report. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations, and on that basis, denies them.

18. Answering Paragraph 18 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

19. Answering Paragraph 19 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

20. Answering Paragraph 20 of the Complaint, Defendant denies reporting any erroneous information on Plaintiff's credit report, and denies making any impermissible inquiries on Plaintiff's credit report. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations, and on that basis, denies them.

21. Answering Paragraph 21 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

22. Answering Paragraph 22 of the Complaint and its subparagraphs I through IX, Defendant denies reporting any erroneous information on Plaintiff's credit report. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations, and on that basis, denies them.

23. Answering Paragraph 23 of the Complaint, Defendant denies making any impermissible inquiries on Plaintiff's credit report, and denies that it caused any damage to Plaintiff's credit score. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations, and on that basis, denies them.

24. Answering Paragraph 24 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

25. Answering Paragraph 25 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

26. Answering Paragraph 26 of the Complaint and its subparagraphs I through V, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

27. Answering Paragraph 27 of the Complaint and its subparagraphs VI through X, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

28. Answering Paragraph 28 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

29. Answering Paragraph 29 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

30. Answering Paragraph 30 of the Complaint, Defendant denies these allegations.

31. Answering Paragraph 31 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

32. Answering Paragraph 32 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

33. Answering Paragraph 33 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

34. Answering Paragraph 34 of the Complaint, Defendant denies that the subject account was fraudulent. Except as stated, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

35. Answering Paragraph 35 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

36. Answering Paragraph 36 of the Complaint, Defendant denies that the subject account is fraudulent or mistaken. As a further response, Defendant denies any express or

implied allegation of wrongdoing, including reporting any erroneous information pertaining to Plaintiff's account, and denies violating the FCRA. Except as stated, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

37. Answering Paragraph 37 of the Complaint and subparagraphs i through iv, Defendant denies these allegations.

38. Answering Paragraph 38 of the Complaint, Defendant denies these allegations.

CAUSES OF ACTION

COUNT I

(Violation of the FCRA – As to Experian Information Solutions, Inc.)

39. Answering Paragraph 39 of the Complaint, Defendant incorporates by reference its responses to Paragraphs 1 through 38 as though fully set forth herein.

40. Answering Paragraph 40 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

41. Answering Paragraph 41 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

42. Answering Paragraph 42 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

43. Answering Paragraph 43 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

Answering the WHEREFORE Paragraph following Paragraph 43 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

COUNT II

(Violation of the FCRA – As to Experian Information Solutions, Inc.)

44. Answering Paragraph 44 of the Complaint, Defendant incorporates by reference its responses to Paragraphs 1 through 38 as though fully set forth herein.

45. Answering Paragraph 45 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

46. Answering Paragraph 46 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

47. Answering Paragraph 47 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

48. Answering Paragraph 48 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

Answering the WHEREFORE Paragraph following Paragraph 48 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

COUNT III

(Violation of the FCRA – As to Defendant, Verizon Communications Inc.)

49. Answering Paragraph 49 of the Complaint, Defendant incorporates by reference its responses to Paragraphs 1 through 38 as though fully set forth herein.

50. Answering Paragraph 50 of the Complaint, Defendant states that the reference to “representation” is too vague and ambiguous to permit a response. Defendant denies any express or implied allegation of wrongdoing, and denies violating the FCRA. Except as stated, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

51. Answering Paragraph 51 of the Complaint, Defendant denies these allegations.

52. Answering Paragraph 52 of the Complaint, Defendant denies these allegations.

53. Answering Paragraph 53 of the Complaint, Defendant denies these allegations.

54. Answering Paragraph 54 of the Complaint, Defendant denies these allegations.

55. Answering Paragraph 55 of the Complaint, Defendant denies these allegations.

56. Answering Paragraph 56 of the Complaint, Defendant denies these allegations.

57. Answering Paragraph 57 of the Complaint, Defendant denies these allegations.

Answering the WHEREFORE Paragraph following Paragraph 57 of the Complaint, Defendant denies that Plaintiff is entitled to the relief requested in the Complaint, including for damages, fees, and costs, or for any other recovery whatsoever against this Defendant.

COUNT IV

(Violation of the FCRA – As to Defendant, Credit One Bank, N.A.)

58. Answering Paragraph 58 of the Complaint, Defendant incorporates by reference its responses to Paragraphs 1 through 38 as though fully set forth herein.

59. Answering Paragraph 59 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

60. Answering Paragraph 60 of the Complaint these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

61. Answering Paragraph 61 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

62. Answering Paragraph 62 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

63. Answering Paragraph 63 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

64. Answering Paragraph 64 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

65. Answering Paragraph 65 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

Answering the WHEREFORE Paragraph following Paragraph 65 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

COUNT V

(Violation of the FCRA – As to Defendant, Comenity Bank)

66. Answering Paragraph 66 of the Complaint, Defendant incorporates by reference its responses to Paragraphs 1 through 38 as though fully set forth herein.

67. Answering Paragraph 67 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

68. Answering Paragraph 68 of the Complaint these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

69. Answering Paragraph 69 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

70. Answering Paragraph 70 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

71. Answering Paragraph 71 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

72. Answering Paragraph 72 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

73. Answering Paragraph 73 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

Answering the WHEREFORE Paragraph following Paragraph 73 of the Complaint, these allegations are not alleged as to Defendant, and thus, no response is required. To the extent a response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

1. Defendant reserves the right to compel contractual arbitration.

SECOND AFFIRMATIVE DEFENSE

2. Plaintiff fails to state a claim upon which relief can be granted against Defendant.

THIRD AFFIRMATIVE DEFENSE

3. Plaintiff's claims are barred in whole or in part by the applicable statute of limitations.

FOURTH AFFIRMATIVE DEFENSE

4. Plaintiff is barred from obtaining the relief sought in the Complaint by the doctrines of estoppel, waiver, unclean hands, laches, or other equitable doctrines.

FIFTH AFFIRMATIVE DEFENSE

5. Plaintiff's claims are barred in whole or in part because Plaintiff has failed to mitigate his alleged damages, if any.

SIXTH AFFIRMATIVE DEFENSE

6. Defendant expressly reserves any defenses that may be available to it under any applicable laws of other jurisdictions, in accordance with applicable choice of law rules.

SEVENTH AFFIRMATIVE DEFENSE

7. Plaintiff's claims are barred in whole or in part because Plaintiff consented to, ratified, or acquiesced in all of the alleged acts or omissions alleged.

EIGHTH AFFIRMATIVE DEFENSE

8. Defendant's conduct was privileged or justified.

NINTH AFFIRMATIVE DEFENSE

9. Plaintiff has waived any and all claims, rights and demands made in the Complaint.

TENTH AFFIRMATIVE DEFENSE

10. Plaintiff's claims may be barred because the acts or omissions of which Plaintiff complains have been approved or mandated, implicitly or expressly, by applicable statutes and regulations.

ELEVENTH AFFIRMATIVE DEFENSE

11. Plaintiff's claims may be barred because Defendant at all times complied in good faith with all applicable statutes and regulations.

TWELFTH AFFIRMATIVE DEFENSE

12. Defendant specifically denies that it acted with any willfulness, oppression, fraud or malice towards Plaintiff.

THIRTEENTH AFFIRMATIVE DEFENSE

13. Any harm alleged in the Complaint can be attributed to several causes, and the damages for this harm, if any, should be apportioned among the various causes according to the contribution of each cause to the harm sustained.

FOURTEENTH AFFIRMATIVE DEFENSE

14. If Plaintiff suffered or sustained any loss, injury, damage or detriment, it was directly and proximately caused and contributed to by the breach, conduct, acts, omissions, activities, carelessness, recklessness, negligence, or intentional misconduct of others, and not by Defendant.

FIFTEENTH AFFIRMATIVE DEFENSE

15. If Plaintiff suffered or sustained any loss, injury, damage or detriment, it was directly and proximately caused and contributed to by the intervening acts of others, and not by Defendant.

SIXTEENTH AFFIRMATIVE DEFENSE

16. If Plaintiff prevails against Defendant, Defendant's liability is several and limited to their own actionable segment of fault, if any.

SEVENTEENTH AFFIRMATIVE DEFENSE

17. Defendant conducted a reasonable investigation of any and all disputes received from a credit reporting agency.

EIGHTEENTH AFFIRMATIVE DEFENSE

18. To the extent Defendant made an inquiry on Plaintiff's credit report, Defendant had a permissible purpose to do so at all relevant times.

NINETEENTH AFFIRMATIVE DEFENSE

19. Defendant is entitled to a set-off against any award to Plaintiff.

TWENTIETH AFFIRMATIVE DEFENSE

20. Plaintiff's action is subject to dismissal or transfer of venue based upon the authorities of the forum *non conveniens* doctrine and/or improper venue law.

TWENTY-FIRST AFFIRMATIVE DEFENSE

21. Defendant specifically gives notice that it intends to rely upon such other defenses as may become available by law, or pursuant to statute, or during any further discovery proceedings of this case, and hereby reserve the right to amend its Answer and assert such defenses.

WHEREFORE, Defendant prays for judgment as follows:

1. Dismissing the Plaintiff's Complaint, in its entirety;
2. That Plaintiff takes nothing by reason of the Complaint;
2. For its costs of suit herein;
3. For attorney's fees to the extent available by law or contract; and
4. For such other and further relief as this Court may deem just and proper.

Dated: New York, New York
September 23, 2020

Respectfully submitted,

**McGIVNEY, KLUGER, CLARK &
INTOCCIA, P.C.**

By: *Dean L. Pillarella*
Dean L. Pillarella, Esq. (Bar No.: 5707724)
Attorneys for Defendant
VERIZON ONLINE, LLC *erroneously*
sued as Verizon Communications Inc.
80 Broad Street, 23rd Floor
New York, New York 10004
dpillarella@mkcilaw.us.com

(Filed and served via ECF/Pacer.)